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2005 MAY 24 PM 4:27  
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Charles B. Welch, Jr  
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Reply to  
Nashville Office

May 24, 2005

Chairman Pat Miller  
c/o Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

RE: Docket No. 04-00335- Notice of Order Entered in Collateral Proceeding and Motion to Set Aside Order Granting Motion to Hold Proceedings in Abeyance and for an Expedited Hearing

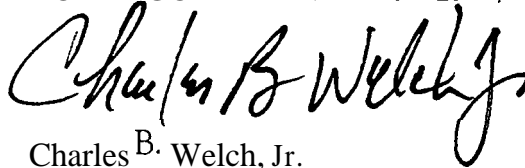
Dear Chairman Miller:

Please find enclosed for filing, an original and 14 copies of the above referenced Notice. Please date stamp one copy for my records.

Thank you for your assistance regarding this matter. If you have any questions, or if I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

FARRIS MATHEWS BRANAN  
BOBANGO HELLEN & DUNLAP, PLC



Charles B. Welch, Jr.

CBW/tp  
Enclosures

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE: PETITION OF	)	
KING'S CHAPEL CAPACITY, LLC FOR	)	
CERTIFICATE OF CONVENIENCE AND NECESSITY	)	DOCKET NO. 04-00335
TO SERVE AN AREA IN WILLIAMSON COUNTY,	)	
TENNESSEE KNOWN AS ASHBY COMMUNITY	}	

**NOTICE OF ORDER ENTERED IN COLLATERAL PROCEEDING AND MOTION TO  
SET ASIDE ORDER GRANTING MOTION TO HOLD PROCEEDINGS IN  
ABEYANCE AND FOR AN EXPEDITED HEARING**

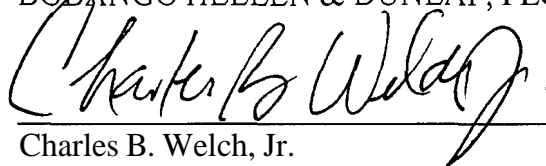
King's Chapel Capacity, LLC, ("KCC"), by and through undersigned counsel of record, hereby gives notice of the Order of the Chancery Court for Williamson County at Franklin, entered May 23, 2005, which dismisses Count III and Count IV of the Complaint filed in *Tennessee Wastewater Systems, Inc., et al v. J. Powell Development, LLC, et al*, Case No. 3 1074. A copy of the Order certified by the Clerk and Master of the Chancery Court of Williamson County, Tennessee is attached hereto as Exhibit Number 1. Notice of Filing of the Chancery Court Order is made in compliance with the Hearing Officer's Order Granting Motion to Hold Proceedings in Abeyance dated December 17, 2004. Evidence of the decision by the Tennessee Department of Environment and Conservation to terminate the state operating permit for Tennessee Wastewater Systems, Inc. of (SOP3032) and the Department's decision to suspend processing the application of KCC for a State Operating Permit of (SOP4056) pending an Order of the Chancery Court has previously been filed and made a part of the record of these proceedings.

In support of this Motion to Set Aside the Hearing Officer's Order Granting Motion to Hold Proceedings in Abeyance and for an Expedited Hearing, KCC submits that all the conditions of the Hearing Officer's Order have been satisfied and its application for a Certificate

of Convenience and Necessity is in a positive to be heard and decided by the Authority. Due to the extraordinary delay and the astronomical cost associated with the delay in providing wastewater services to the Ashby Community, movant requests that the scheduling and hearing of this cause be expedited.

Respectfully submitted,

FARRIS MATHEWS BRANAN  
BOBANGO HELLEN & DUNLAP, PLC



Charles B. Welch, Jr.  
618 Church Street, Suite 300  
Nashville, TN 37219  
Tel: (615) 726-1200  
Fax: (615) 726-1776

Attorneys for Petitioners

### **CERTIFICATE OF SERVICE**

This certifies that I have served a copy of this Notice on the following counsel of record by United States mail this 24<sup>th</sup> day of May, 2005.

Henry Walker, Esq.  
Boult, Cummings, Conners & Berry, PLC  
1600 Division Street, Suite 700  
P.O. Box:340025  
Nashville, TN 37203-00259

Richard Milatana, Esq.  
Milatana & Milatana  
5845 Old Highway 96  
Franklin, TN 37064

AL-90674 I

## **EXHIBIT 1**

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY  
AT FRANKLIN.

FILED  
WILLIAMSON COUNTY  
CLERK & MASTER

2005 MAY 20 PM 4:03

ENTERED 5/23/05

TENNESSEE WASTEWATER SYSTEMS, )  
INC. f/k/a ON-SITE SYSTEMS, INC. and )  
ON-SITE CAPACITY DEVELOPMENT )  
COMPANY, )

Plaintiffs, )

vs. )

J. POWELL DEVELOPMENT, LLC, JOHN )  
POWELL, ELAINE POWELL, C. WRIGHT )  
PINSON, ASHBY COMMUNITIES, LLC, )  
HANG ROCK, LLC, ARRINGTON )  
MEADOWS, LLC, and KINGS CHAPEL )  
CAPACITY, LLC, )

Defendants. )

Case No.: 31074

ORDER

This Court, upon consideration of the proof presented at the trial by the parties on Count III of the Plaintiffs Tennessee Wastewater System, Inc. (TWS) and Onsite Capacity Development Company's Complaint; the Defendants J. Powell Development, LLC, John Powell, Elaine Powell, C. Wright Pinson, Ashby Communities, LLC, Hang Rock, LLC, Arrington Meadows, LLC, and King's Chapel Capacity, LLC's (the Defendants) Motion for Involuntary Dismissal pursuant to Tenn. R. Civ. Pro. 41.02(2); the Plaintiffs' Response to the Defendants' Motion for Involuntary Dismissal; the Defendants' Reply to the Plaintiffs' Response to said Motion; and oral argument of the parties, hereby and FINDS and ORDERS said Motion to Dismiss for Involuntary Dismissal is DUE to be and is HEREIN GRANTED. Based upon the evidence, there is no set of facts upon which the Court can find that TWS is the owner of the wastewater.



system at issue between the parties. By ordering a dismissal herein of Count III, the Court cannot order a transfer and/or conveyance of the Defendants' real property by the Defendants to TWS as Count IV requests. The Court further finds dismissal of Count IV is proper and DUE to be and is HEREIN GRANTED.

The Court herein DISMISSES COUNT III and COUNT IV of the Plaintiffs' Complaint pursuant to Rule 41.02(2).

IT IS SO ORDERED this the 23 day of May, 2005.



HONORABLE RUSS HELDMAN  
CHANCERY COURT JUDGE FOR  
WILLIAMSON COUNTY, TENNESSEE

Approved for Entry by:

Marshall Cook by permission F. Shyne  
Marshall T. Cook, Esq.  
Bone, McAllister, Norton, PLLC  
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Jere N. McCulloch, Esq.  
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F. Shyne  
F. Shayne Brasfield, Esq.  
Brasfield & Milazo, P.C.  
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Franklin, TN 37064

Sarah Dorger by permission F. Shyne  
Sarah B. Dorger (Pro Hac Vice)  
411 Saint Francis Street  
Mobile, Alabama 36602

STATE OF TENNESSEE  
WILLIAMSON COUNTY  
I, THE UNDERSIGNED CLERK & MASTER, DO  
HEREBY CERTIFY THIS TO BE A TRUE COPY  
OF THE ORIGINAL OF THIS INSTRUMENT  
FILED IN THIS CAUSE.

PLANNIE A. BRIDGES, Clerk & Master



## CERTIFICATE OF SERVICE


This certifies that I have served a copy of this Order on the following counsel of record, by United States mail this 20<sup>th</sup> day of May, 2005.

Marshall T. Cook, Esq.  
Bone, McAllister, Norton, PLLC  
511 Union Street, Suite 1600  
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Jere N. McCulloch, Esq.  
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Franklin, TN 37064

Sarah B. Dorger (Pro Hac Vice)  
411 Saint Francis Street  
Mobile, Alabama 36602

  
F. Shayne Brasfield

## CLERK'S CERTIFICATE

I hereby certify that a true and exact copy of foregoing has been mailed or delivered to all parties or counsel of record.

5/23/05  
Date

  
Clerk & Master

